

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/936,182 09/24/97 KITAGISHI

N 1232-4046US1

EXAMINER

MM91/1015

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SHAFFER, R

ART UNIT

PAPER NUMBER

2872

DATE MAILED:

10/15/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No. 08/936,182	Applicant(s) KITA GLSME	
Examiner R.D. SMATER	Group Art Unit 2872	

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 months MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 6/25/2001
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 36-105 is/are pending in the application.
- Of the above claim(s) 57-70 AND 92-105 is/are withdrawn from consideration.
- ☒ Claim(s) 37-42, 44-56, 72-84 AND 86-91 is/are allowed.
- ☒ Claim(s) 36, 43, 71 AND 85 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received
- in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

1 Applicant's arguments filed 6/25/2001 have been fully considered but they are not persuasive.

Applicant remarks filed on 6/25/01 fail to address the issue and/or provide any rational as to why it would not have been obvious and/or within the level of one of ordinary skill in the art to modify the shape of the so-called prism of Nicia et al to include a plate nor any statement that the invention would not perform equally well employing the prism of Nicia et al. Accordingly, it is concluded that the shape of the prism of Nicia et al, as stated by the examiner in Paper No. 20, constitutes no inventive concept. Therefore, notwithstanding the issue of whether it would have been obvious to modify and/or arrange the light in such a manner that the light is incident on "said one surface side of the plate (prism) through prism (9), the polarizing device of Nicia et al is inherently capable of performing the function, recited by applicant, due to the fact that Nicia et al discloses all of the structure (prism) or the modified structure (plate) positively recited by claims.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36, 43, 71 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicia et al ('588).

Nicia et al discloses a polarizing device (8) comprising a prism (11) having a polarizing beam splitting surface (10) on one surface and a reflection surface on the other surface, a half wavelength plate (12) and prism means (9), note fig. 2, except for the prism being a "plate". It

would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to modify the shape of the prism of Nicia et al to include a plate as is well known and commonly used and employed in the optical art.

Moreover, since applicant has not disclosed that a plate solves any stated problem or is for any particular purpose, it appears that the invention would perform equally well with a prism.

Note In re Dailey et al, 149 USPQ 47 and In re Kuhle, 188 USPQ 7.

As to the limitations that light is incident on said plate (prism) from said one surface side, it would have been obvious and/or within the level of one having ordinary skill in the art at the time the invention was made to arrange the light of Nicia et al to be incident on said one surface side of said plate (prism) through said prism means (9), since it has been held that rearranging parts of an invention involves only routine skill in the art. Note In re Gazda, 104 USPQ 400.

3. Claims 37-42, 44-56, 72-84 and 86-91 are allowed.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the image generator must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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Art Unit: 2872

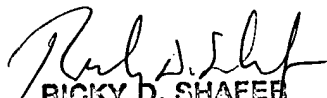
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication should be directed to R. D. Shafer at telephone number (703) 308-4813.

Shafer/RDS

October 4, 2001

  
RICKY D. SHAFER  
PATENT EXAMINER  
ART UNIT 2872